

Chapter 13

Licenses, Permits and General Business Regulations

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Part 1**Licenses, Permits and General Business Regulations****§13-101. License Required to Operate Amusement Machines.**

On and after the 1st day of March, 1948, it shall be unlawful for any person or persons, firm or corporation, either as a principal or agent (herein-after called "operator"), to operate, cause to operate or permit to continue to be operated, if within their control, anywhere within the Borough of Oklahoma, whether on public or private property, any pinball machines, machines operated as games of skill, or other machines played for amusement (hereinafter called "machines"), without having first obtained a license therefor from the Mayor.

(*Ord. 41, 2/10/1948, §1; as amended by Ord. 2015-04, 12/14/2015*)

§13-102. License Fee; License Not Transferable Between Owners; New License Not Required When Machine Replaced by Another.

The operator shall pay in advance for said license the sum in an amount as established from time to time by resolution of Borough Council for each amusement machine for each calendar month or fraction thereof; provided, however, that said license shall not be transferable from one owner to another, and provided further, that such owner shall not be required to secure a new license when one machine is replaced by another, so long as the operator is licensed to operate the total number of machines in his place of business.

(*Ord. 41, 2/10/1948, §2; as amended by Ord. 177, 2/14/1983, §1; and by Ord. 2015-04, 12/14/2015*)

§13-103. Inspection of Licensed Machines.

The Borough police, under the direction of the Mayor, shall make periodical inspection of machines so licensed.

(*Ord. 41, 2/10/1948, §3; as amended by Ord. 2015-04, 12/14/2015*)

§13-104. Exhibit of License upon Request; Suspension of License.

The license granted under this Part shall be exhibited on the request of the Mayor or any police officer, and the Mayor may, after affording a hearing to the licensee, of which said hearing the licensee shall have at least 48 hours notice, suspend any license herein granted, if he deems it to be of benefit to the public health, safety and morals, and, when so suspended, that portion of the unearned license fee shall be returned to the operator.

(*Ord. 41, 2/10/1948, §4; as amended by Ord. 2015-04, 12/14/2015*)

§13-105. Penalty for Violation.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of

Criminal Procedure, shall be sentenced to pay a fine of not less than \$200 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 41*, 2/10/1948, §5; as amended by *Ord. 100*, 8/19/1966, §1; by *Ord. 204A*, 2/13/1989, §14; and by *Ord. 2015-04*, 12/14/2015)

Part 2**Junk Dealers and Junkyards****§13-201. License Required to Operate Junkyards and Similar Establishments.**

On and after the passage of this Part, it shall not be lawful for any person or persons, firms or corporations, either as principal or agent, to carry on, operate or conduct junkyards, salvage yards or other places used and maintained for the collection, storage and disposal of used and second-hand goods and materials, within the Borough, whether on public or private property, until a certificate of license shall have been granted by the Mayor of the Borough of Oklahoma. [Ord. 2015-04]

A. All junk dealers, junkyards, salvage yards and other places used and maintained for the collection, storage and disposal of used and second-hand goods and materials shall be licensed within 30 days from the effective date of this Part and annually thereafter by the 31st day of December of each year.

B. Registration shall be on a form supplied by the Borough. Separate registration shall be filed for each and every junk business, junkyard, salvage yard or other places used and maintained for the collection, storage and disposal of used and second-hand goods and materials.

C. No person or persons, firms or corporations shall, by virtue of one license, keep more than one place of business.

D. Each application shall be accompanied by the sum in an amount as established from time to time by resolution of Borough Council, which sum shall be paid into the Borough Treasury for use of the said Borough. [Ord. 2015-04]

E. At the expiration of each calendar year, said certificate of license shall be null and void.

(Ord. 53, 9/12/1955, §1; as amended by Ord. 2015-04, 12/14/2015)

§13-202. Conditions for Issuance of License.

Before a license shall be issued, the applicant must conform with the following requirements:

A. The junkyard, salvage yard or other places used and maintained for the collection, storage and disposal of used and second-hand goods and materials shall be confined to an area enclosed by a tightly-built solid fence or wall constructed of brick, stone, concrete, cement block or other similar materials which shall be of a minimum height of 6 feet.

B. No advertising of any nature shall be displayed on the enclosure fence or wall.

C. The business shall be conducted in such a way as to discourage the harboring of cats, skunks, and other vermin, and the breeding of mosquitoes and other animals or insects.

(Ord. 53, 9/12/1955, §2)

§13-203. Manner of Conducting Business; Premises Open to Inspection.

Every person or persons, firms or corporations, being licensed under the provisions of this Part shall so conduct the business of such license that the same shall not amount to a nuisance, and the places of business, premises, vehicles and carriers of such licensees shall be subject, during the business hours herein provided, to inspection by the Borough police or any authorized representatives of the Borough Council.

(*Ord. 53, 9/12/1955, §3*)

§13-204. Unlawful to Purchase Junk from Minors or Unknown or Irresponsible Persons.

No person or persons, firm or corporation being licensed under the provisions of this Part shall purchase or receive from any minor, unknown or irresponsible persons any material commonly known as “junk.”

(*Ord. 53, 9/12/1955, §4*)

§13-205. Premises not to be Open for Business Between Certain Hours.

The premises of any person or persons, firm or corporation being licensed hereunder shall not be open for the transaction of business before 7 a.m. and shall close promptly at 6 p.m.

(*Ord. 53, 9/12/1955, §5*)

§13-206. Licenses not Transferable; Exhibition to Police; Suspension.

Licenses granted hereunder are not transferable and shall be exhibited upon the request of any police officer. Council may suspend, upon motion, any license issued when they deem it to be of benefit to the public health, safety or morals.

(*Ord. 53, 9/12/1955, §6*)

§13-207. Establishments Covered.

Automobile wrecking and dismantling businesses and yards and places dealing in used automobile parts shall come within the definition of “junkyards, salvage yards, or other places used and maintained for the collection, storage and disposal of used and second-hand goods and materials.”

(*Ord. 53, 9/12/1955, §7*)

§13-208. Penalty for Violation.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$200 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(*Ord. 53, 9/12/1955, §8; as amended by Ord. 204A, 2/13/1989, §15; and by Ord. 2015-04, 12/14/2015*)

§13-209. Exceptions.

This Part shall not be construed to prohibit a person, or persons, firm or corporation depositing any used or second-hand goods or materials, upon his or its premises within the Borough where said person, firm or corporation is not engaged in the business of junk dealing, the operation of junkyards, salvage yards, or other places used and maintained for the collection, storage and disposal of used and second-hand goods and materials; but the same is deposited by the said person, firm or corporation incidental to his or its use and enjoyment of his or its property within the Borough, and provided such does not violate any other ordinance of the Borough.

(Ord. 53, 9/12/1955, §9)

Part 3**Transient Retail Businesses****§13-301. Definitions.**

1. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Legal holiday—New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

Person—any natural person, partnership, association, corporation, or other legal entity.

Transient retail business—

(1) Engaging in peddling, soliciting, or taking orders, either by sample or otherwise, for any goods, wares, or merchandise upon any street, alley, sidewalk, or public ground, or from house to house, within the Borough.

(2) Selling, soliciting, or taking orders for any goods, wares, or merchandise, from a fixed location within the Borough, on a temporary basis, which shall include, but not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for yearly holidays.

2. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 2015-04, 12/14/2015)

§13-302. License Required; Conditions of Issuance; Fee.

No person shall engage in any transient retail business within the Borough without first having obtained from the Secretary a license, for which a fee, which shall be for the use of the Borough, shall be charged, said fee to be in such amount established, from time to time, by resolution of the Borough.

(Ord. 2015-04, 12/14/2015)

§13-303. Exceptions.

No license fee shall be charged:

A. To farmers selling their own produce.

B. For the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.

C. To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.

D. To children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.

E. To the seeking or taking of orders by insurance agents or brokers licensed

under the insurance laws of the Commonwealth of Pennsylvania.

F. To a person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

G. For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business.

But all persons exempted hereby from the payment of the license fee shall be required to register with the Secretary and obtain a license without fee; provided, any person dealing in one or more of the above mentioned exempted categories, and dealing with other goods, wares, or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this Part for his activities in connection with the sale of goods, wares, and merchandise not in such exempted categories. Provided, further, the Secretary may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling goods, wares, or merchandise for the sole benefit of a nonprofit corporation. Provided, further, every license issued under the provisions of this Part shall be issued on an individual basis to any person or persons engaging in such business; every individual shall obtain a separate license, issued to him in his name, and the license fee hereby imposed shall be applicable to every such individual license, except that a representative of a charitable organization may obtain licenses for the applicants.

(Ord. 2015-04, 12/14/2015)

§13-304. License Application.

Every person desiring a license under this ordinance shall first make application to the Secretary for such license. He shall, when making such application, exhibit a valid license from any State or county officer, if such license is also required. The applicant shall state:

- A. His criminal record, if any.
- B. Name and address of the person by whom he is employed.
- C. Type of goods, wares, and merchandise he wishes to deal with in such transient retail business.
- D. Length of time for which license is to be issued.
- E. Type and license number of the vehicle to be used, if any.

(Ord. 2015-04, 12/14/2015)

§13-305. Issuance of License; Custody, Display and Exhibit.

Upon receipt of such application and the prescribed fee, the Secretary, if he shall find such application in order, shall issue the license required under this Part. Such license shall contain the information required to be given on the application therefor. Every license holder shall carry such license upon his person if engaged in transient retail business from house to house or upon any of the streets, alleys, sidewalks, or public grounds, or shall display such license at the location where he shall engage in such business if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, municipal officials, and citizens or residents of the Borough.

(Ord. 2015-04, 12/14/2015)

§13-306. Prohibited Act.

No person in any transient retail business shall:

- A. Sell any product or type of product not mentioned in his license.
- B. Hawk or cry his wares upon any of the streets, alleys, sidewalks, or public grounds in the Borough.
- C. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Borough for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity.
- D. Park a vehicle upon any of the streets or alleys in the Borough for the purpose of sorting, rearranging, or cleaning any of his goods, wares, or merchandise or of disposing of any carton, wrapping material, or stock, wares or foodstuffs which have become unsalable through handling, age or otherwise.
- E. Engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time before 9 a.m. or after 5 p.m. on any day of the week other than a Sunday or legal holiday.

(Ord. 2015-04, 12/14/2015)

§13-307. Supervision; Records and Reports.

The Secretary shall supervise the activities of all persons holding licenses under this Part. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Council.

(Ord. 2015-04, 12/14/2015)

§13-308. Denial, Suspension and Revocation of License; Appeal.

The Secretary is hereby authorized to deny, suspend or revoke any license issued under this Part when he deems such denial, suspension or revocation to be beneficial to the public health, safety, or morals, or for violation of any provision of this Part, or for giving false information upon any application for a license hereunder. Appeals from any suspension, revocation or denial of a license may be made to the Council at any time within 10 days after such suspension, revocation or denial and a hearing shall be held within 30 days of the petition for appeal. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

(Ord. 2015-04, 12/14/2015)

§13-309. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 2015-04, 12/14/2015)

Part 4**Adult Use Businesses****§13-401. Intent.**

1. It is the intent of this regulation to further the purpose of the zoning regulations. The Borough, through its planning and zoning regulations, wishes to provide for its citizens and tourists an atmosphere that is both safe, healthy and aesthetically pleasing, one that fosters activities appropriate for visitors of all ages on its thoroughfares. In addition, the Borough through its neighborhood planning program and comprehensive plan recognizes that some residential neighborhoods, because of their proximity to commercial districts, are more susceptible to the effect of intensive or obnoxious activities. This regulation aims to preserve neighborhood integrity while fostering a positive and wholesome image for visitors from out of the area.

2. It is further the purpose of this Part to promote the health, safety and general welfare of the citizens of the Borough and to establish reasonable regulations. The provisions of this Part have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Part to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Part to condone or legitimize the distributions of obscene material.

(Ord. 2003-02, 6/9/2003, §1)

§13-402. Definitions.

As used in this Part, the following terms shall have the meanings indicated:

Adult arcade—any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still-or-motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at anyone time and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas. All adult arcades must be constructed according to Exhibit A,¹ which is part of this Part.

Adult bookstore or adult video store—a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration anyone or more of the following: books, magazines, periodicals or other printed matter; photographs, films, motion pictures, videocassettes, video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or instruments, devices or paraphernalia which are designed for use in connection with specified sexual

¹Editor's Note: Exhibit A is on file in the Borough office.

activities.

Adult cabaret—a nightclub, bar, restaurant or similar commercial establishment which regularly features persons appearing in the state of nudity; live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; films, motion pictures, videocassettes, slides, digital imaging, photographic reproductions or any and all visual media using the most recent technology, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel—a hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, digital imaging, photographic reproductions or any visual media using current technology which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult-type of photographic reproductions; or offers sleeping rooms for rent four or more times in 1 calendar day during five or more calendar days in any continuous 30-day period.

Adult motion picture theater—a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater—a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities.

Child oriented business—any commercial establishment which, as one of its principal business purposes, serves and/or sells children and their families food, apparel, goods, services, play and/or entertainment.

Escort—a person whom, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency—any person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

Municipality—the Borough of Oklahoma.

Nude model studio—any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

Nudity or a state of nudity —the appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

Permittee and/or licensee —any person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

Person—an individual, proprietorship, partnership, corporation, association or

other legal entity.

Seminude—a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center—a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex; or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

Sexually oriented business—an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

Specified anatomical areas—the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

Specified sexual activities—includes any of the following: fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; masturbation, actual or simulated; or excretory functions as part of or in connection with any other specified sexual activities.

Substantial enlargement of a sexually oriented business—that increase in floor areas occupied by the business by more than 25 percent, as the floor area exists on date of enactment of this Part.

Transfer of ownership or control of a sexually oriented business—includes any of the following: the sale, lease or sublease of the business; the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or the establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 2003-02, 6/9/2003, §2)

§13-403. Classification.

Sexually oriented businesses are classified as follows:

- A. Adult arcades.
- B. Adult bookstores or adult video stores.
- C. Adult cabarets.
- D. Adult motels.
- E. Adult motion picture theaters.
- F. Adult theaters.
- G. Escort agencies.
- H. Nude model studios.
- I. Sexual encounter centers.

(Ord. 2003-02, 6/9/2003, §3)

§13-404. Permit Required; Application; Inspection.

1. Any person who operates a sexually oriented business without a valid permit issued by the Borough is guilty of a violation of the Zoning Chapter [Chapter 27].

2. An application for a permit to operate a sexually oriented business must be made on a form provided by the Zoning Officer. Pennsylvania Department of Labor and Industry approved plans showing the floor plan and plot plan configuration of the premises, including a statement of total floor space occupied by the business, must accompany the application. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.

3. The applicant must be qualified according to the provisions of this Part, and the premises must be inspected and found to be in compliance with the law of the Zoning Officer.

4. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a direct or indirect interest of 10 percent or greater in the corporation must sign the application for a permit as applicant.

5. The fact that a person possesses other types of Borough permits does not exempt the person from the requirements of obtaining a sexually oriented business permit.

(Ord. 2003-02, 6/9/2003, §4)

§13-405. Issuance of Permit.

1. The Zoning Officer shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless he finds one or more of the following to be true:

A. An applicant is under 18 years of age.

B. An applicant or an applicant's spouse is overdue in his payment to the Borough of taxes, fees, fines or penalties assessed against him or imposed upon him in relation to a sexually oriented business.

C. An applicant has failed to provide all information required for issuance of the permit or has falsely answered a question or request for information on the application form.

D. An applicant is residing with a person who has been denied a permit by the borough to operate a sexually oriented business within the preceding 12 months or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding 12 months.

E. The premises to be used for the sexually oriented business have been reviewed and have been disapproved by the Zoning Officer as not being in compliance with applicable laws and ordinances.

F. The permit fee required by this Part has not been paid.

G. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Part.

H. An individual applicant or any individual holding a direct or indirect interest of more than 10 percent of a corporate applicant, or any of the officers and directors of a corporate applicant, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the manager or other person in charge of the operation of the applicant's business, has or have been convicted of an offense involving sexual misconduct within the Commonwealth of Pennsylvania, including but not limited to prostitution, obscenity and possession of child pornography, or convicted of any offense in any jurisdiction other than the Commonwealth of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the Commonwealth of Pennsylvania. In order for approval to be denied pursuant to this subsection, the person or person's conviction or release in connection with the sexual misconduct offense must have occurred within 2 years of the date of application in the event of a misdemeanor and within 5 years of the date of application in the event of a felony.

2. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

3. The Zoning Officer shall complete the certification that the premises are in compliance or not in compliance within 20 days of receipt of the application to the Zoning Officer. The certification shall be promptly presented to the Zoning Officer.

(*Ord. 2003-02, 6/9/2003, §5*)

§13-406. Fees.

The annual fee for a sexually oriented business permit shall be in an amount as established from time to time by resolution of Borough Council.

(*Ord. 2003-02, 6/9/2003, §6; as amended by Ord. 2015-04, 12/14/2015*)

§13-407. Inspection.

1. An applicant, or permittee, shall permit the Zoning Officer to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time that the sexually oriented business is open for business.

2. A person who operates a sexually oriented business or his agent or employee violates the Zoning Ordinance [Chapter 27] if he refuses to permit such lawful inspection of the premises at any time it is open for business.

(*Ord. 2003-02, 6/9/2003, §7*)

§13-408. Expiration of Permit.

1. Each permit shall expire 1 year from the date of issuance and may be renewed only by making application as provided in §13-405. Application for renewal should be made at least 30 days before the expiration date, and, when made fewer than 30 days

before the expiration date, the pendency of the application will not prevent the expiration of the permit.

2. If the Zoning Officer denies renewal of a license, the applicant shall not be issued a permit for 1 year from the date of denial, except that after 90 days having elapsed since the date of denial, the applicant may be granted a permit if the Zoning Officer finds that the basis for denial of the renewal permit has been corrected or abated.

(Ord. 2003-02, 6/9/2003, §8)

§13-409. Suspension of Permit.

The Zoning Officer shall suspend a permit for a period not to exceed 30 days if he determines that a permittee or an employee of a permittee has violated or is not in compliance with any section to this Part; refused to allow an inspection of the sexually oriented business premises as authorized by this Part; knowingly permitted gambling by any person on the sexually oriented business premises.

(Ord. 2003-02, 6/9/2003, §9)

§13-410. Revocation of Permit.

1. The Zoning Officer shall revoke a permit if a cause of suspension set forth in §409 occurs and the permit has been suspended within the preceding 12 months.

2. The Zoning Officer shall revoke a permit if he determines that:

A. Permittee, or any of the persons specified in §13-405, or has been convicted of the offenses specified in said Section.

B. Permittee gave false or misleading information in the material submitted to the Borough during the application process.

C. Permittee or an employee of a permittee has knowingly allowed possession, use or sale of controlled substances on the premises.

D. Permittee or an employee of prostitution on the premises.

E. Permittee or an employee of a permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended.

F. Permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other explicit sexual conduct to occur in or on the permitted premises.

G. Permittee is delinquent in payment to the city or state of any taxes or fees relating to sexually oriented businesses.

3. When the Zoning Officer revokes a permit, the revocation shall continue for 1 year, and the permittee shall not be issued a sexually oriented business permit for 1 year from the date revocation becomes effective, except that if the revocation is pursuant to subsection 2.A above, the revocation shall be effective for 2 years in the event of a misdemeanor or 5 years in the case of a felony.

4. To minimize and reduce delay to the applicant or permittee, and in addition to the appeal time frames and remedies available under the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, all permit denial, renewal, suspension or revocation decisions

shall be sent, in writing, to the applicant or licensee. All such decisions which deny, refuse or renew, suspend or revoke a permit shall state specifically the ordinance requirement not met and any other basis of the decision. After denial of an application, or denial of a renewal of an application, or after suspension or revocation of any permit, the applicant or permittee may appeal pursuant the procedures of the Local Agency Law, 2 Pa.C.S.A. §101 *et seq.*, to the Oklahoma Zoning Hearing Board, except as modified herein. Any such appeal must be filed, in writing, with the Zoning Officer; within 30 days from the date of the mailing of the decision appealed from and shall specify, in detail, the basis for the appeal. Failure or refusal to file said appeal or specify the basis of said appeal with the Zoning Officer shall be deemed a conclusive determination as to the issues or matters addressed by the written decision. If an appeal is timely filed, the Zoning Hearing Board will then hold a Local Agency Law hearing pursuant to 2 Pa.C.S.A. §101 *et seq.* within 20 days from the date the appeal is filed and will render a written decision within 10 days from the date such hearing concludes. In the case of a denial or renewal, or in the case of a permit suspension or revocation, the permittee may continue to operate to the same extent as immediately prior to the suspension or revocation until the earlier of:

- A. The expiration of the 10-day appeal period without filing of an appeal.
- B. The date of a final decision dismissing any appeal.

5. To minimize and reduce delay to the applicant or permittee, and in addition to the appeal time frames and remedies available under the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, any person aggrieved by a decision of the Zoning Hearing Board may appeal to a court of competent jurisdiction pursuant to the Local Agency Law, 2 Pa.C.S.A. §101 *et seq.*, and 42 Pa.C.S.A. §933(a) (2). The Zoning Hearing Board shall, upon filing of such an appeal, consent to any request by a permit applicant or permittee to the court to give expedited review of such appeal. The Zoning Hearing Board shall certify any record to the court within 20 days after the appeal is filed. In the case of a denial of a permit renewal, or in the case of a permit suspension or revocation, the permittee may continue to operate to the same extent as immediately prior to the denial, suspension or revocation until the earlier of the expiration of the 30-day appeal period without filing of an appeal; or the date of a decision dismissing an appeal by a court of competent jurisdiction.

(Ord. 2003-02, 6/9/2003, §10)

§13-411. Transfer of Permit.

A permittee shall not transfer his permit to another person. A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

(Ord. 2003-02, 6/9/2003, §11)

§13-412. Location of Sexually Oriented Businesses.

1. A person is guilty of a violation of the Zoning Ordinance [Chapter 27] if he operates or causes to be operated a sexually oriented business outside of the district in which a sexually oriented business is a permitted use. No sexually oriented business shall be located outside a district in which a sexually oriented business is a permitted use. Sexually oriented businesses as defined herein shall be permitted in the General

Industrial District (M). Hours of operation shall be from 8 a.m. to 10 p.m., Monday through Saturday. No hours of operation on Sundays and legal holidays.

2. A person is guilty of a violation of the Zoning Ordinance [Chapter 27] if he operates or causes to be operated a sexually oriented business within 1,000 feet of a church; a public or private pre-elementary, elementary or secondary school; a public library; a child-care facility or nursery school; a public park adjacent to any residential district; a child-oriented business; a college and/or public or private university; and any residentially zoned districts in the Borough.

3. A person is guilty of a violation of the Zoning Ordinance [Chapter 27] if he causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

4. A person is guilty of a violation of the Zoning Ordinance [Chapter 27] if he causes or permits the operation of a substantial enlargement of the sexually oriented business.

5. For the purposes of this Part of the Zoning Chapter [Chapter 27] of the Code of the Borough of Oklahoma, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, public or private pre-elementary, elementary or secondary school, public library, child-care facility, child-oriented business or nursery school; or to the nearest, boundary of an affected public park, college, university or residentially zoned district.

6. For purposes of this Section of this Part of the Zoning Chapter [Chapter 27] of the Code of the Borough of Oklahoma, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

7. Any sexually oriented business lawfully operating on date of enactment of this Part that is in violation of any part of this Section shall be deemed a nonconforming use. Any preexisting nonconforming use sexually oriented business that is abandoned or is not used as such for a period of at least 12 months loses its preexisting nonconforming status and must thereafter comply with all provisions of this Part to reopen. At the time of the writing of this Part there are no such preexisting uses in the Borough. If in the event that two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

8. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, public or private pre-elementary, elementary or secondary school, public library, child-care facility, child-oriented business, nursery school or public park within 1,500 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

(*Ord. 2003-02, 6/9/2003, §12*)

§13-413. Exemptions.

It is a defense to prosecution under §§13-405 and 13-412 that a person appearing in a state of nudity did so in a modeling class operated by a proprietary school, licensed by the Commonwealth of Pennsylvania, or a college, junior college or university supported entirely or partly by taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; in a structure which has no sight visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; where, in order to participate in a class, a student must enroll at least 3 days in advance of the class; and where no more than one nude model is on the premises at anyone time.

(*Ord. 2003-02, 6/9/2003, §13*)

§13-414. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of this Part is subject to an action in equity or a suit for injunction as well as citations for violations of the Zoning Ordinance [Chapter 27].

(*Ord. 2003-02, 6/9/2003, §14*)

